

CHRISTOPHER S. PORRINO
ATTORNEY GENERAL OF NEW JERSEY
R.J. Hughes Justice Complex
25 Market Street
P.O. Box 112
Trenton, New Jersey 08625
Attorney for Defendants Trooper Sparacio and Trooper Mills.

By: Suzanne Davies
Deputy Attorney General
(609) 633-3985
Suzanne.davies@dol.lps.state.us.nj

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
VICINAGE OF CAMDEN

SHEENA SLIPPI-MENSAH,

Plaintiff,

v.

TROOPER J.M. MILLS and
TROOPER SPARACIO,

Defendants.

:

Hon. Noel L. Hillman, U.S.D.J.

:

Civil Action No. 15-07750 (NLH/JS)

:

**DEFENDANTS' ANSWER AND AFFIRMATIVE
DEFENSES TO PLAINTIFF'S COMPLAINT**

:

TO: CLERK OF COURT

John Kearney, Esq.
Kearney, Campbell & Burns, P.C.
210 White Horse Pike, P.O. Box 279
Haddon Heights, NJ 08035

Defendants, Trooper Sparacio and Trooper Mills answer
Plaintiff's Complaint as follows:

PARTIES

1. Admitted.
2. Admitted.
3. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation and Plaintiff is left to her proofs.

FACTS

1. Admitted.
2. Admitted that Defendants observed a Cadillac on 1-295.
3. Admitted that Defendants initiated a traffic stop. Denied allegations that Defendants acted without probable cause or justification.
4. Admitted that Plaintiff was placed under arrest. Defendant allegations that Defendants acted without probable cause or justification.
5. Admitted that Defendants wrote a police report. Denied that Defendants falsified the report.
6. Admitted.
7. Admitted.
8. Admitted that a DRE expert was contacted.
9. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation and Plaintiff is left to her proofs.

10. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation and Plaintiff is left to her proofs.
11. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation and Plaintiff is left to her proofs.
12. Admitted.
13. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation and Plaintiff is left to her proofs.
14. Denied.
15. Admitted.
16. Denied.
17. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation and Plaintiff is left to her proofs.
18. Admitted.
19. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation and Plaintiff is left to her proofs.
20. Denied.

CAUSES OF ACTIONS

COUNT ONE

NEW JERSEY STATE CIVIL RIGHTS ACTIONS

21. Defendants repeat the answers contained in the preceding paragraphs as if set forth at length herein.
22. Denied.
- a. Denied.
- b. Denied.
- c. Denied.
- d. Denied.
- e. Denied.
- f. Denied.
- g. Denied.

WHEREFORE, Answering Defendants deny that the Plaintiff is entitled to the relief he seeks and demand judgment dismissing the Plaintiff's complaint with prejudice, together with an award to the Answering Defendants of attorney's fees and costs of suit. Answering Defendants deny Plaintiff's entitlement to a judgment for damages: compensatory, punitive, cost of suit, attorney's fees or any other relief.

COUNT SIX

CIVIL RIGHTS AND 42 U.S.C. 1983 CLAIMS

23. Denied.
24. Denied.
25. Denied.

26. Denied.

27. Denied.

28. Denied.

29. Denied.

30. Denied.

31. Denied.

WHEREFORE, Answering Defendants deny that the Plaintiff is entitled to the relief he seeks and demand judgment dismissing the Plaintiff's complaint with prejudice, together with an award to the Answering Defendants of attorney's fees and costs of suit. Answering Defendants deny Plaintiff's entitlement to a judgment for damages: compensatory, punitive, cost of suit, attorney's fees or any other relief.

COUNT SEVEN
VIOLATION OF CIVIL RIGHTS AND 1983 CLAIMS

32. Defendants repeat the answers contained in the preceding paragraphs as if set forth at length herein.

33. The allegations contained in this paragraph are not directed at Answering Defendants and as such no response is required.

WHEREFORE, Answering Defendants deny that the Plaintiff is entitled to the relief he seeks and demand judgment dismissing the Plaintiff's complaint with prejudice, together with an award to the Answering Defendants of attorney's fees and costs of suit. Answering Defendants deny Plaintiff's entitlement to a

judgment for damages: compensatory, punitive, cost of suit, attorney's fees or any other relief.

COUNT EIGHT
CONSPIRACY TO VIOLATE 42 U.S.C. 1983 AND 1985 AND THE NEW JERSEY CONSTITUTION

34. Defendants repeat the answers contained in the preceding paragraphs as if set forth at length herein.

35. Denied.

WHEREFORE, Answering Defendants deny that the Plaintiff is entitled to the relief he seeks and demand judgment dismissing the Plaintiff's complaint with prejudice, together with an award to the Answering Defendants of attorney's fees and costs of suit. Answering Defendants deny Plaintiff's entitlement to a judgment for damages: compensatory, punitive, cost of suit, attorney's fees or any other relief.

COUNT NINE
VIOLATION OF 42 U.S.C. 1986

36. Defendants repeat the answers contained in the preceding paragraphs as if set forth at length herein.

37. The allegations contained in this paragraph are not directed to Answering Defendants and as such no response is required.

WHEREFORE, Answering Defendants deny that the Plaintiff is entitled to the relief he seeks and demand judgment dismissing the Plaintiff's complaint with prejudice, together with an award to the Answering Defendants of attorney's fees and costs of suit.

Answering Defendants deny Plaintiff's entitlement to a judgment for damages: compensatory, punitive, cost of suit, attorney's fees or any other relief.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

At all times relevant hereto, Answering Defendants have acted in good faith and without fraud or malice.

SECOND AFFIRMATIVE DEFENSE

Answering Defendants have not deprived Plaintiff of any right, privilege or immunity secured to him by the New Jersey or United States Constitutions or any Act of Congress or the Legislature of New Jersey.

THIRD AFFIRMATIVE DEFENSE

The Complaint fails to state a claim against Answering Defendants upon which relief may be granted.

FOURTH AFFIRMATIVE DEFENSE

Answering Defendants are immune from suit.

FIFTH AFFIRMATIVE DEFENSE

Answering Defendants are employees of an agency of the State of New Jersey and at all relevant times was performing act within the scope of their official duties in good faith without fraud or

malice, and is immune from liability sought to be imposed upon them based on the doctrine of qualified immunity.

SIXTH AFFIRMATIVE DEFENSE

The Complaint is barred by the doctrine of res judicata and/or collateral estoppel.

SEVENTH AFFIRMATIVE DEFENSE

Recovery is barred in this action by reason of the applicable statutes of limitations.

EIGHTH AFFIRMATIVE DEFENSE

Answering Defendants are not guilty of negligence and violated no duty to Plaintiff.

NINTH AFFIRMATIVE DEFENSE

The action is so lacking in fact-based merit as to warrant dismissal with prejudice.

TENTH AFFIRMATIVE DEFENSE

The Complaint is barred by the doctrine of laches.

ELEVENTH AFFIRMATIVE DEFENSE

Answering Defendants reserve the right to interpose each and every separate defense that continuing investigation may indicate.

TWELFTH AFFIRMATIVE DEFENSE

Insofar as claims asserted against the Answering Defendants allege tortious acts, they are governed by and subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq. Failure to file a

notice of claim pursuant to, N.J.S.A. 59:8-1 precludes plaintiff from asserting those claims.

THIRTEENTH AFFIRMATIVE DEFENSE

Damages, if any, sustained by the plaintiff were caused as a result of his intentional acts.

FOURTEENTH AFFIRMATIVE DEFENSE

Damages, if any, sustained by the plaintiff were the result of the actions of persons and/or entities over whom the defendants had no control.

FIFTEENTH AFFIRMATIVE DEFENSE

Any actions taken by the Defendant was in the nature of discretionary activity within the meaning of N.J.S.A. 59:3-2, and accordingly no liability may be imposed upon the defendant.

SIXTEENTH AFFIRMATIVE DEFENSE

The Complaint and the proceedings resulting therefrom and any recovery resulting therefrom is barred, limited and/or controlled by the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq.

SEVENTEENTH AFFIRMATIVE DEFENSE

Any recovery to which the Plaintiff may be entitled against the Defendants is subject to the limitations and reductions on damages set forth in N.J.S.A. 59:9-2

EIGHTEENTH AFFIRMATIVE DEFENSE

Recovery is barred by the failure of the plaintiff to give timely notice of claims or to present a claim in accordance with N.J.S.A. 59:8-1 et seq.

NINETEENTH AFFIRMATIVE DEFENSE

Recovery is barred by the failure of the plaintiff to give timely notice of a contractual claim or to present a contractual claim in accordance with N.J.S.A. 59:13-1 et seq.

TWENTIETH AFFIRMATIVE DEFENSE

The Defendants have a policy against discrimination, harassment and retaliation.

TWENTY-FIRST AFFIRMATIVE DEFENSE

The plaintiff's damages, if any, are barred because he failed to mitigate damages.

TWENTY-SECOND AFFIRMATIVE DEFENSE

The Plaintiff is not entitled to punitive damages.

RESERVATION OF RIGHTS

Defendants reserve the right, at or before trial, to move to dismiss the Complaint and/or move for summary judgment, on the grounds that the Complaint fails to state a claim upon which relief can be granted and/or Defendant is entitled to judgment as a matter of law.

JURY DEMAND

Defendant demands a trial by jury for all issues of fact.

DESIGNATION OF TRIAL COUNSEL

Please be advised that Vincent Rizzo and Suzanne Davies, Deputy Attorney Generals, are hereby designated as trial counsel.

Respectfully submitted,

CHRISTOPHER S. PORRINO
ACTING ATTORNEY GENERAL OF NEW JERSEY

By: /s/Suzanne Davies
Suzanne Davies
Deputy Attorney General
Suzanne.davies@dol.lps.state.nj.us